Remarks

In response to the Office Action mailed June 14, 2006, the Applicants respectfully request reconsideration in view of the following remarks. Independent claim 1 has been amended to specify that the signal to insert the locally stored advertisement is sent with the broadcast media programming. Independent claim 21 has been amended to specify that the locally stored advertisement which is inserted is determined based on the frequency that each of a plurality of advertisements stored in the set top box has been previously inserted and wherein at least one advertisement among the plurality of stored advertisements which has not been frequently inserted is favored over the remaining plurality of stored advertisements. Support for these amendments may be found on page 4, lines 14-18 and on page 14, lines 12-21. No new matter has been added.

Claims 1-3 and 6-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hite et al. (of record, hereinafter "Hite") in view of Ballard (of record) and further in view of Ficco (U.S. Pat. App. Pub. No. 2005/0166224). Claim 21 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Hite in view of Ballard and further in view of Ficco and in further view of Esch et al. (U.S. Pat. No. 5,283,639).

Applicants' Statement of the Substance of the Interview

A telephonic interview between the undersigned representative for the Applicants and the Examiner was held on August 25, 2006 to discuss the rejection of independent claim 1 in view of the cited references of record. In the interview, the Examiner agreed that the cited references of record were silent with regard to a signal which is utilized to insert stored advertisements that is sent with broadcast media programming, which was proposed as an amendment to the pending claims.

Claim Rejections - 35 U.S.C. §103

Claims 1-3 and 6-11

In the Office Action, claims 1-3 and 6-11 are rejected as being unpatentable over Hite in view of Ballard and further in view of Ficco. The rejection of these claims is respectfully traversed.

Amended independent claim 1 specifies a method for inserting targeted advertisements into a media delivery stream during broadcast media programming. The method includes: (a) storing data files representing a plurality of advertisements in a media delivery device in a database, wherein the stored advertisements are each of a type that is determined to appeal to one or more users of the media delivery device; (b) receiving a signal in the media delivery device to insert a stored advertisement into the media delivery stream during broadcast media programming, wherein the signal to insert the stored advertisement is sent with the broadcast media programming; (c) inserting an advertisement stored in the database into the media delivery stream; and (d) transmitting a request from the media delivery device to an external network through a telecommunications link to receive the plurality of advertisements for storage in the media delivery device; and wherein the database includes a table for classifying the stored advertisements according to a plurality of categories, which includes a classification according to the type of advertisement that is stored, and wherein the signal includes at least one classification for one or more of the categories as provided in the table for selecting a commercial stored in the database for insertion into the media delivery stream.

It is respectfully submitted that neither Hite nor Ballard nor Ficco, alone or in combination, teaches, discloses, or suggests each of the features specified in amended independent claim 1. For example, none of the aforementioned references discloses receiving a

signal in the media delivery device to insert a stored advertisement into the media delivery stream during broadcast media programming, wherein the signal to insert the stored advertisement is sent with the broadcast media programming. As noted in the Office Action, Hite discloses that "the Commercial Processor 438 can cause commercial signals to be stored or played back from the Optional Video Storage Device Storage Device 456 by signals conveyed by electrical and/or optical connection 462 to the Optional Video Storage Device 456. The Optional Video Storage Device 456 may either store or playback certain commercials under the control of signals conveyed by electrical and/or optical connection 462 from the Commercial Processor 438." See Col. 14, lines 28-32 and lines 43-46. Hite, however, fails to disclose that the signals conveyed by the Commercial Processor 438 are sent with broadcast media programming, as specified in amended independent claim 1.

Ballard, which deals with advertisements being provided to a computer for display, also fails to disclose a signal for instructing a media delivery device to insert a stored advertisement into a media stream during broadcast media programming, wherein the signal to insert the stored advertisement is sent with the broadcast media programming. Ficco, relied upon in the Office Action to allegedly cure the deficiencies of Hite and Ballard, discloses the adaptation of broadcast advertisements which are in the process of being sent to a broadcast audience or which have been previously sent and later queued for presentation to the audience. See paragraphs 7 and 13. Ficco, however, is only concerned with advertisements which have been previously sent or are in the process of being sent to a broadcast audience. Thus, Ficco fails to teach, disclose, or suggest receiving a signal in a media delivery device to insert a stored advertisement into the media delivery stream during broadcast media programming, wherein the signal to insert the stored advertisement is sent with the broadcast media programming.

Since, as discussed above, neither Hite nor Ballard nor Ficco, teaches, suggests, or discloses each of the features of independent claim 1, this claim is allowable and the rejection of this claim should be withdrawn. Claims 2-3 and 6-11 depend from independent claim 1, and are thus allowable for at least the same reasons. Therefore, the rejection of these claims should also be withdrawn.

Claim 21

In the Office Action, claim 21 is rejected as being unpatentable over Hite in view of Ballard and further in view of Ficco and in further view of Esch. The rejection of this claim is respectfully traversed.

Independent claim 21 specifies a system for inserting television commercials stored locally in a television set top box into a media programming stream. The method includes: (a) a receiver for receiving broadcast media programming into the set top box, (b) a commercials database for storing advertisements in the set top box, (c) a commercials detector for detecting audio tones in broadcast media programming where one or more of the detected audio tones are substitution signals that indicate authorization for a local television station to insert locally stored advertisement into the media stream, wherein the locally stored advertisement which is inserted is determined based on the frequency that each of a plurality of advertisements stored in the set top box has been previously inserted, and wherein at least one advertisement among the plurality of stored advertisements which has not been frequently inserted is favored over the remaining plurality of stored advertisements. It is respectfully submitted that neither Hite nor Ballard nor Ficco nor Esch, alone or in combination, teaches, discloses, or suggests each of the features of independent claim 21. For example, none of the cited references disclose that a locally stored advertisement which is inserted in a media stream is determined based on the frequency that each

of a plurality of advertisements stored in the set top box has been previously inserted and wherein at least one advertisement among the plurality of stored advertisements which has not been frequently inserted is favored over the remaining plurality of stored advertisements.

As discussed above, Hite discloses the playback of stored commercial signals but fails to disclose determining the insertion of locally stored advertisements based on the frequency that each of a plurality of stored advertisements has been previously inserted into a media stream. Ballard, does disclose playback constraints on the timing for displaying advertisements by an advertising service provider (see Col. 7, lines 35-49) but fails to disclose that any of the constraints are based on the frequency that each of a plurality of advertisements stored in a set top box has been previously inserted into media programming and wherein at least one advertisement among the plurality of stored advertisements which has not been frequently inserted is favored (for insertion) over the remaining plurality of stored advertisements. Ficco, which as discussed above is concerned with the adaptation of broadcast advertisements which are in the process of being sent to a broadcast audience or which have been previously sent and later queued for presentation to the audience, also fails to disclose this feature.

With regard to Esch, the reference discloses a cue decoding processor for the detection and discrimination of network cue signals such as coded dual tone multiple frequency (DTMF) signals or other information. The network cue signals are utilized by a cue decoding processor to generate insertion cue signals. See Col. 9, lines 22-34. Esch, however, fails to disclose that a locally stored advertisement which is inserted in a media stream is determined based on the frequency that each of a plurality of advertisements stored in a set top box has been previously inserted and wherein at least one advertisement among the plurality of stored advertisements

which has not been frequently inserted is favored over the remaining plurality of stored advertisements.

Based on the foregoing, it is respectfully submitted that Hite, Ballard, Ficco, and Esch, individually and in combination, fail to teach, disclose, or suggest each of the features specified in claim 21. Therefore, claim 21 is allowable and the rejection of this claim should be withdrawn.

Conclusion

In view of the foregoing amendments and remarks, this application is now in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is invited to call the Applicants' attorney at the number listed below.

Respectfully submitted,

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